

THE PRACTICE  
OF  
*The Marshalls Court :*  
TOGETHER  
With their FEES,  
And the several Charges  
of all Proceedings there ;  
And its present Establishment :  
Particularly set forth and Explained.  
Whereby it will appear of  
what great Authority this Court  
hath been in all Times.

---

LONDON,

Printed for Robert Crofts at the Crown  
in Chancery-lane. 1663.

Practice

PHYSIOLOGY

1. *What is the*

2. *What is the*

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6. *What is the*

7. *What is the*

8. *What is the*

N



## To the READER.

**I**n order to a satisfactory account of this Court and of this endeavour in this Treatise, to shew the nature of its Jurisdiction, its method of Proceeding, and the Clients ( both Plaintifles and Defendants) Charge tberein, it will be requisite, though in a preposterous

A 4 way

To the Reader.

*way, first to show the annihilation or nulling of it in late Times of the Usurpation, and the beginning of its constitution, and the reason thereof.*

*Indeed, that Disauthorizing By-blow of the Independent Anarchy, might very well be forgotten here, were it not that the injurious continuance of that Illegal Sup-*

To the Reader.

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ofleaced the Memory and  
the Record thereof, and the  
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noray of nothing less.

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nearest

To the Reader.

neerest Appendixes of the  
prerogative of the Crown  
and if continued in its  
primitive use, would be  
a remain and relique of  
Monarchy and Majest  
ty, which they could by  
no means endure shoul  
be in the eyes of the Peo  
ple; which for the accom  
modateness and benefit  
of its Jurisdiction, did  
seek for speedy redress  
from thence rather than  
else

To the Reader.

thelselfewhere. They likewise  
previously knew, that this  
Court was a standing  
Monument of that re-  
spect and reverence all  
Parliaments and the  
Laws have throughout all  
Times had for the King,  
following His Court the  
circuit and compass which  
is now called the Verge  
of Twelve Miles round  
about it; so that in effect  
there is no Potentate or  
Prince

To the Reader.

Prince in the World  
can shew a Palace of such  
an extent, nor can any  
the most magnificent Sep-  
raglio compare with it  
as my Lord Bacon hath  
most elegantly observed in  
his Charge to the Grand  
Jury of this Court.

Nor did they take care  
alone for the outward  
State and Splendour of  
the Kings Palace in these  
dimensions, but for the  
inward

To the Reader.

world inward Honour and  
such Glory thereof, by pre-  
serving it as much as was  
Se~~possible~~, free from disor-  
it der and all manner of  
Enormity, by erecting  
this Judicature, appoin-  
ting and giving extraor-  
dinary power and autho-  
rity to the Steward of  
the Kings Household,  
the principal Judge here,  
to determine all manner  
of Causes criminal, ju-  
dicial

To the Reader.

dicial or capital *arising*  
*within the Verge*; and  
*this they strengthened and*  
*backed with several laws*  
*as you will perceive in the*  
*ensuing Treatise; which*  
*said power is now again*  
*happily returned into the*  
*same channel.* And so  
much may suffice to be  
spoke of its Original In-  
stitution.

*As to the Practice, that*  
*Disuse thereof having im-*  
*mad*

## To the Reader.

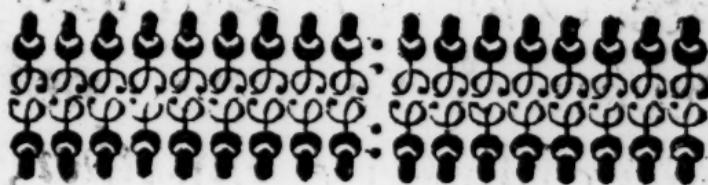
finnade it something difficult, and the charge of an Suit there suspectful of Innovation, I have given them accompt of the several Rates thereof, that by a due compare it may appear they are the same as ever; and also to let the Reader see the easinesse in them beyond the charge of other Courts; its dispatch and present ending of all Suits; and that

To the Reader.

that finally its Authority  
is as Authentick and  
as sovereign as any other  
it being a kind of peculiar  
Kings-Bench.

Both the Name, Na-  
ture, and Proceedings  
thereof, are fully declared  
in the ensuing Tract, to  
your Perusal and Accep-  
tance whereof we Com-  
mend it.

Vale, eff



THE

# PALACE-COURT.

*v.i.d. 3 blsks h. 76.  
Carr. Cr. 400.*

IT is requisite first, that the Nature of this *Court* be understood, and that more especially, because the

A late

late *Usurpation* had endeavoured to race out and obliterate the *Jurisdiction* thereof, merely for being consistent and suited to the *English Laws*, and more especially to the *Kings Person*, *His Court*, and *His Royalties*, the soul and intrinsick matter of *Government*.

First, la

First, of the Antiquity  
thereof.

For the Antiquity of this Court, it is as ancient as any other of the Kings Courts, if not ancienter: *Curia sequitur Regem*, The Court followeth the KING; and it is therefore peculiarly called the *Palace Court*, referring to

4 *The Palace-Court.*

the KING'S residence; and this *Court* doth more especially concern Him, as appears by the *Statute* of 4 H. 6. 8. directing us to the *Statute* of the Twenty eighth of *Edward* the coke cap. 18.  
Jurisdiction  
of COURTS. *First*, *Articuli super Chartas*; wherein several Provisions were made for the advantage thereof. No doubt it is of as long stan-

standing as the *Monar-  
chy of ENGLAND*. *Fleta*  
saith it is next to the  
*High Court of Parlia-  
ment.*

---

*The Marshal and Mar-  
shalsea, whence so  
called.*

**F**OR it will appeare  
by the terme and  
name of this *Court*, that  
A 3 it

it was of the same neer beginning with the *British Sovereignty*: For as to the derivation of the terms *Marescballus* and *Marescalcia*, they are *Saxon* words, which nevertheless tend much to the proof of the *Antiquity* and *Honour* of our *Nation*, seeing other *Nations* have the same Offices and Officers; so that in respect the name

name is derived from our *Language*, as that of our Ancestours, it is apparent other *Nations* took the same from us

My Lord Justice *Coke* saith further, That this Court hath its *Foundation* from the *Common Law*, and the *Jurisdiction* thereof is original and ordinary.

*The Jurisdiction and authority of this Court, and first of its Name.*

**A**lbeit in this *Court* the *Steward* and *Marshall* are *Judges*, and the *Steward* hath the precedence, yet the *Court* is called the *Marshallsea* for three causes.

First, the *Marshall* is not onely a *Judge*, but

seeth

feeth that *Execution*,  
which is the *Life of the  
Law*, be done.

Secondly, his Office  
is in force both in time  
of *War* and *Peace*.

Though the *Constable*  
of *England* be the chief  
*Nobleman* (which from  
the Family of the *Bo-  
huns* Earls of *Hereford*,  
descended by Inheri-  
tance upon the Person  
of *Edward* Duke of  
A 5 Buck-

Buckingham, Attainted  
the thirteenth Year of  
Henry the Eighth, in  
whom that too master-  
ly an Honour fell) and  
hath the precedence in  
other places, of the  
Marshal of England,  
yet notwithstanding  
though their Power  
and Authority were so  
untempered, yet the  
Marshal-sea carried it  
through the Current of  
the Laws. The

*The Authority of the Court.*

**T**He Authority of this Court was larger formerly then now, according to the *Prerogative* of our former Princes, but in the Twenty Eighth year of that noble Prince *Edw.* the First, by an *Act* intituled *Articuli super Chartas*

*Charters*, the Jurisdiction was limited and divided into three Qualifications;

First, to determine all *Covenants*, *Contracts*, and *Trespasses*, wherein both *Plaintiff* and *Defendant* were of the Kings Household.

Secondly, all *Contracts* and *Covenants*, which should arise in *Controversie*, if either of the

the Parties were of the  
said Household.

Thirdly, for all manner of *Trespasses* and *Personal Actions* arising within the Verge of the King's Household.

Several Variations have been made by Acts of PARLIAMENT since, but now the Establishment is as followeth;

This

This Court is kept every *Friday* in the *Court-house* on *St. Margarets hill* in *Southwark*, and may be held in any other fit place within 12. Miles of *White-hall*.

The Judges, are, the *Lord Stewards* of the *Kings House*, and the *Knight Marshal* for the time being, and the *Steward* of the *Court* or his *Deputy*.

art

The

The proceedings in this Court is by Capias or Attachment, which is to be served upon the Defendant, by one of the Knight Marshalls men, who taketh Bond with such Sureties for the Defendants appearance at the next Court as he will answer for, at his perill, the Bayle are to be sufficient House-keepers within the Jurisdiction

risdiction of the Court,  
sufficient to the Action.

And these Processes  
are to be had at the  
Office of the same  
*Court*, appointed by the  
*Steward*, which every  
Minister of the Court  
or Marshalls-man can  
direct you to.

The Defendant up-  
on his appearance must  
put in two sufficient  
House-keepers, living  
within

within the Jurisdiction of the Court, to pay the Condemnation in Court, which if he neglect to do, the Plaintiff may have the Bond taken for his appearance Assigned over to his use, and so Arrest the Defendant and his Sureties.

The next Court after the Bayle taken and accepted of by the Plain-

Plaintiffe, the Plaintiff  
ought to declare and  
set forth the cause of his  
Action, and if he do  
not declare the Defen-  
dant may have an Exe-  
cution against him for  
his costs and charges  
but if the Plaintiff do  
declare against him  
then they go on to Issue  
and Tryall by a Jury,  
who live within the Ju-  
risdiction of the Court,  
according

iffe according to the course  
and of the Common-Law.  
his In foure or five  
do Court days, commonly  
en all your Actions come  
xe to Tryal; so the pro-  
for ceedings of this Court  
ges are very quick and  
do speedy; and at small  
him Charges.

The Actions tryed  
ry, there, are of Debt, Tres-  
Ju-  
passe, Battery, Slander,  
urt, *Trover*, and all other  
ing Actions

Actions personal what-  
soever.

The Fees of this  
Court I have here set  
down as they are in-  
serted in the *Letters-  
Patents.*

The ordinary Fees  
of the Palace Court  
of *Westminster*, to be  
paid by the *Plaintiff.*

*Imprimis,*

**I**mprimis, for every *Writ* or *Precept* of *Capias* or *Attachment* to the *Steward* and *Marshall*, *One Shilling*.

To the *Prothonotary* for *Writing* the *Writ*, *Two Pence*.

To the *Marshalls* man for *executing* or *serving* it, *One Shilling Four pence*.

The *Attorneys* Fee upon every *Declaration*

*tion, Issue, Venire Facias, and Habeas corpora Juratorum.* One Shilling Eight pence.

For the *Warrant of Attourney to the Prothonotary.* Four Pence.

For making of every *Declaration, and Entry* thereof to the *Prothonotaries Clerks,* One Shilling.

For the Fee of the Court upon every *Declaration,*

Claration, Issue, and  
knowledge of Satisfaction  
to the Steward and  
Marshall, One Shilling  
of four pence.

For the marking and  
Filing of every Declaration,  
and Entry of  
every Satisfaction to the  
Prothonotary, eight pence  
To the Prothonotary  
for entering of every Issue,  
and every Verdict  
and Judgement, One shilling.  
The

The Cryers Fee upon  
every Issue, Four pence.

For every Writ of  
*Venire facias*, *Habeas*  
*corpora*, *distringas* *fura-*  
*tores*; and for every o-  
ther Writ of *Execu-*  
*tion* and others, *One shil-*  
*ling* and *eight pence*.

To the Prothonotary  
for writing of every of  
them, *Four pence*.

For the *Return* of e-  
very one of them to the  
Prothono-

The Palace-Court.

25  
Prothonotary, One shil-  
ling.

To the *Marshalls*  
Man for executing e-  
very *Venire facias*, Two  
shillings.

For the executing of  
the *Habeas Corpora*, and  
*distringas Juratores*, to  
the *Marshalls* man, One  
shilling and six pence.

To the Cryer for  
warning of the *Jury*, Six  
pence.

B For

For every Verdict  
and Judgement there-  
upon, to the *Steward*  
and *Knight Marshall*,  
*Three shillings and Four  
pence.*

To the *Prothonotary*  
for entring every *Bail*,  
*Five pence.*

To the *Keeper of the  
Prison* thereupon, *A  
Penny.*

For the *Attourneys  
Fee* upon every *Bill of  
Issue*,

et Issue, *Venire facias*, and  
e- *Habeas Corpora Jurato-*  
rd *rum*, One shilling and  
l, eight pence.

ur For the Copy of e-  
ry very *Declaration* to the  
ry Prothonotary, One shil-  
l, ling.

ne For every Issue on  
the Defendants part, to  
A the Steward and Mar-  
shall, One shilling and  
ys Four pence.

of B 2 For

For every Warrant  
of Attourney for the  
Defendant, thereupon  
to the *Prothonotary*,  
*Four pence.*

---

*Accidental Fees.*

For every Rule of  
Court to the *Pro-  
thonotary*, *Four pence.*

For the Drawing of  
every

every *Declaration, Plea, Rejoynder, Sur-rejoyn-der, Moratur in Lege,* for every Sheet to the *Protbonotaries Clerk,* *Four pence.*

For the Inrolment thereof, to the *Protbo-notary* for every Sheet, *Eight pence.*

For every Writ of *Subpena* to the *Steward* and *Marshall, Two shil-lings.*

For the writing there-  
of, and of every *decem-  
tales*, and of every *Re-  
traxit* to the *Prothono-  
tary*, *Six pence*.

For the allowing of  
every *Writ of Proce-  
dendo*, to the *Steward*  
and *Marshall*, *One shil-  
ling and eight pence*.

For the *Entry* there-  
of, and of every *Con-  
tinuation*, and for the  
*Assigning* of an *Obli-  
gation*

gation for Appearance  
on Record to the *Pro-  
thonotary*, *Eight pence.*

To the *Marshalls*  
man for keeping the  
*Jury*, *One shilling.*

To the *Hall-keeper*,  
*One shilling.*

To every *Council-  
lor at Law* for his *Fee*,  
*Five shillings.*

To the *Cryer* for  
Proclamation of every  
*Jury*, *Six pence.*

B 4 To

To the Attourneys  
Clerk for every Bill of  
Costs, *Eight pence.*

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*For ordinary Fees to be  
paid by the Defendant.*

**F**OR the Knight-  
Marshalls Fee upon  
every Arrest, *Three  
shillings and Six pence.*

To the *Prothonotary*  
thereupon

thereupon, *Ten pence.*

To the Keeper of the Prison thereupon, *Four pence.*

To the Turn-key thereupon, *Four pence.*

For every Bail in Court, and every Bill to the *Steward* and *Knight Marshall*, *One shilling* and *Four pence.*

For executing every *Writ of Scire facias*, to the *Cryer*, *One shilling.*

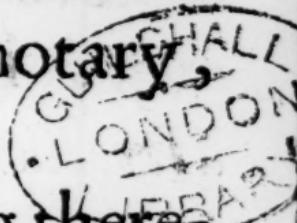
For the Copy of e-  
very Record, to the  
*Prothonotary* for every  
Sheet thereof, *Four*  
*pence.*

To the Cryer for e-  
very *non pros*, *four pence.*

For every *Venire fa-  
cias*, *Habeas corpora*, or  
*Distringas Juratores per  
proviso*, to the *Steward*  
and *Knight Marshall*,  
*One shilling and Eight*  
*pence.*

For

For writing thereof  
to the Prothonotary,  
*Four pence.*



For executing there-  
of, to the *Cryer*, *Two  
Shillings.*

For the Return  
thereof to the Protho-  
notary, *One shilling.*

For the keeping the  
Jurors thereof, to the  
*Cryer*, *One shilling.*

For every *Non pros*,  
and every Allowance  
of

of *Habeas Corpus*, *Writ of priviledge*, *Superse-deas*, and every other such like *Writ*, to the Steward and Marshall,  
*One shilling and Eight pence.*

For the Entry of every one of them, on Record, to the Prothonotary, *Eight pence.*

For the Return of every such *Writ* to the Steward and Marshall,  
*One*

One shilling and Four pence.

For writing the Return thereof, for every Action to the Prothonotary, *One shilling.*

For the Allowance of every Writ of Error, to the *Steward* and *Marshall*, *One pound.*

For the Prothonotary for Entry thereof, *Two shillings.*

For

For every Writ of  
Supersedeas, *Two shil-  
lings and Six pence.*

For Certifying of  
Records to the Pro-  
thonotary for the wri-  
ting of every Roll of  
Parchment thereof, *Six  
shillings and eight pence.*

For Correction of e-  
very Prisoner, in Exe-  
cution, to the Keeper  
of the Prison, *One shil-  
ling and Six pence.*

For

For the Prothono-  
taries Clerk's Fee there-  
upon, *One shilling and  
Six pence.*

To the Turnkey  
thereupon, *One shilling  
Four pence.*

For the Prothonota-  
ries Clerks Fee for the  
Entry of the *Cause* of  
Suit, and Release of  
every Prisoner, *Four  
pence.*

Upon

Upon every Obligation of Appearance of the Prisoner to the said Clerk, Six pence.

**H**aving thus set down the Fees of this Court, that all Claimants may know their certain charge without the

the trouble or danger of  
Exaction, and to show  
the reasonableness and  
easie Rates thereof to  
what is used in other  
*Courts*, it will not be a-  
misse after this *litigant*  
part of this *Court* is  
thus described, to speak  
a little of its Jurisdicti-  
on by way of Indict-  
ment, and reference to  
the Peace.

You

You may know therefore, as the Learned *Lord Bacon* saith in his *Charge* given to the *Verge*, that these four things are cognizable and Inquirable in this *Court*, as well as in any other of the Kings *Courts* at *Westminster* or else, for all Matters and *Trespasses* committed within the circuit of the *Verge*

*First*,

First, All manner of  
Offences against God  
and the Church, contra-  
ry to the Statutes made  
against them, as *Sacri-  
lege, Blasphemy, Recu-  
fancy, Separation*, and  
the like.

Secondly, All manner  
of Offences against the  
King and the State,  
(more particularly the  
Person of the King) as  
*Treasons, Conspiracies,  
Riots*,

*Riots, Tumults, and other lesser Offences of the same kind and nature, and Generally whatever disturbs the Publick Peace.*

Thirdly, All manner of Offences that are capital, and reach to the Life of the Offender.

Fourthly, All manner of Offences not capital, extending to *Fines, Im-*

Imprisonment, and Loss  
of Limbs, Pillory and  
Whipping.

All these particulars were usually heard and determined at Set times in the Yeer, by the Lord Steward himselfe in person, but of late by *Commission*, which as it hath taken something from the Honour, so hath it added to the Strength and Executi-  
on

on of its Authority; so that you may see, as hath been said, that this *Court* hath always been had in great veneration and respect.

It remains that something should be said touching *Attachments*, *Sequestrings*, *Distresses*, *Replevins*, &c. as likewise of *Wagers of Law*, *Demurrers*, and other such Legal Defences;

and

and the Method and  
as way of Proceeding in  
at this *Court* in such *Cases* ;  
ys but because there is lit-  
tle variation here, from  
other *Courts* in the same  
Matters , save a due  
disproportion in *Fees* ,  
not very considerable ;  
and because the practice  
is more frequent in *Cor-  
poration-Courts* than *here*  
they are omitted in this  
little *Treatise*, which is  
intend-

intended for no prolix *Repetition* of that which every person is supposed to have some understanding in, or may easily attain it by former Directions.

Thus have I concluded the Account of this most Ancient and most Honourable *Court*, having been the larger deducing its Jurisdiction, because of the perti-

lix ty meane conceit and  
such estimation people gene-  
rally have had thereof,  
(though its Decrees are  
as valid and binding as  
any of the Benches  
of Law at *Westminster*)  
desiring the Reader to  
his accept of this Ende-  
avour in good part, and  
wherein it is not fully  
satisfactory, to help it  
by his own observance,  
which a small practice

or Suit will enable him to make therein. But before I have done, you must note, that as to Juries and Jurors this Court is not limited to Freeholders, but may be served by any sufficient Inhabitants within the Verge; which also is not limited and confined in this or any other Residence of the Kings person; which alone

him alone makes the place  
But he stays at a Court;  
but whereever it shall  
happen for pleasure,  
convenience, or other  
causes, as Sicknesse,  
Infection, and the like,  
this Jurisdiction follow-  
eth His abode, and may  
be executed in as full  
& ample manner with-  
in any 12 Miles of His  
abode and habitation;  
though for the Honour

of the Kings ancient Mansion, neer this His Imperial Chamber, the Cities of *London* and *Westminster*, in all removes of the King and His Court, the Law proceeds here, and Trials are had, and Judgment and Execution as of course, and as used before.

But there must be a special care used by the Mar-

Marshals men and other his Officers, that *they passe not the Verge* in doing or executing any Process or Judgment; for there is a Statute to the contrary, made upon complaint of the exorbitant actions and unwarrantable proceedings in former times: And as 'tis a Maxime and chief Sanction of the Law, that





the King can do no wrong, so especial care is to be had in the administration of this Judicature, that His Subjects receive none, being so neerly under his eye and protection, and his Court supposed by the Law to be a sanctuary and shelter from all injustice and oppression. So that there is no fear of injury and Fraud in this

this Court, in regard  
the King is in some sort  
more personally present  
here than in other his  
Judicatures.

I thought to have ad-  
ded the Names of the  
distinct Offices and Of-  
ficers belonging to this  
Court for further satis-  
faction, but I must not  
swell the Book, which  
hath exceeded its first  
designement.

*FINIS.*